

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A.,

Plaintiff-Counterclaim Defendant,

-against-

DEPFA BANK PLC and LLOYDS TSB BANK PLC,  
Defendants-Counterclaimants.

Case No.: 10-CV-4424 (JPO) (AJP)

DEPFA BANK PLC and LLOYDS TSB BANK PLC,

Third-Party Plaintiff,

-against-

ACCESS TO LOANS FOR LEARNING  
STUDENT LOAN CORPORATION and  
JPMORGAN CHASE BANK, N.A.

Third-Party Defendants.

**NOTICE OF MOTION TO  
EXCLUDE PROPOSED EXPERT  
TESTIMONY OF JOEL POWERS  
AND STEVEN THEL**

LLOYDS TSB BANK PLC,

Third-Party Plaintiff,

-against-

ACCESS TO LOANS FOR LEARNING  
STUDENT LOAN CORPORATION,

Third-Party Defendant.

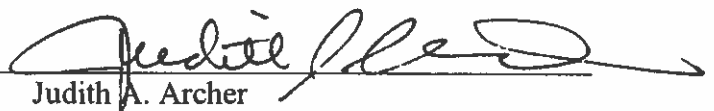
PLEASE TAKE NOTICE that on the annexed Declaration of Judith A. Archer, dated October 31, 2011, with exhibits, the Memorandum of Law in Support of its Motion to Exclude Proposed Expert Testimony of Joel Powers and Steven Thel, and all prior pleadings and proceedings herein, Plaintiff-Counterclaim Defendant The Bank of New York Mellon Trust Company, N.A. ("BNY Mellon"), by its undersigned attorneys, will move this Court before the Honorable J. Paul Oetken at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York, at a date and time to be set by the Court, for an Order pursuant to FED. R. EVID. 104, 402, 403, 702 and the United States Supreme Court's holdings in *Daubert v.*

*Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and its progeny, excluding from the trial of this case the opinions and testimony of Joel Powers and Steven Thel, experts retained in this matter by Defendant-Counterclaimant Depfa Bank plc.

This motion is joined by Defendant-Counterclaimant Lloyds TSB Bank plc and Third-Party Defendants Access to Loans for Learning Student Loan Corporation and JPMorgan Chase Bank, N.A.

Dated: October 31, 2011  
New York, New York

Respectfully submitted,

By:   
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